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NSC FOR RICHARD MILES  
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SUBJECT: AMERICAN CHAMBER OF COMMERCE CONCERNS ABOUT  
MEXICAN FISCAL REFORM PLAN

REF: A. 8/3/07 E-MAIL LKIRKCONNELL TO AJEWELL AND  
AFAIBISHENKO

- [B. MEXICO 3246](#)
- [C. MEXICO 2518](#)
- [D. MONTERREY 725](#)
- [E. MEXICO 4151](#)
- [F. MEXICO 3859](#)
- [G. MEXICO 351](#)
- [H. 06 MEXICO 7015](#)
- [I. MEXICO 4150](#)

[1. \(U\) Summary:](#) In ref A, Post sent Treasury's Office of International Affairs the Spanish-language presentation from the American Chamber of Commerce about its concerns regarding the fiscal reform proposal that President Calderon submitted to Mexico's Congress (ref B). Below is an English-language summary of the AmCham presentation. Post initially reported on AmCham's concerns in ref F. AmCham's concerns include possible double taxation since the "CETU" (Single Rate Business Tax, an alternative minimum tax) does not appear to meet the requirements of the U.S.-Mexico tax treaty, the effect of the CETU on U.S. firms with large numbers of employees, and the effects of the CETU on U.S. maquiladora firms (firms assembling products for export.) End Summary

Double Taxation  
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[2. \(U\) The AmCham presentation begins with a cover letter explaining AmCham's overall concerns, including double taxation. The letter quotes the AmCham Mexico President as claiming AmCham is working very closely with US Treasury and Mexican Finance Ministry officials to resolve the problem of possible double taxation under the CETU. Later in the presentation, AmCham says the Finance Ministry is discussing the possible non-credibility of the CETU against U.S. taxes with the U.S. Treasury Department, and that so far there has not been a determination although it seems very difficult for the CETU to be creditable given its nature. The AmCham says non-credibility of the CETU goes against agreements with the United States to avoid double taxation, and will not only raise the cost of doing business for U.S. firms but will reduce their competitiveness in attracting investment and](#)

generating jobs. (Comment: A recent report from accounting firm Ernst and Young/Mexico says Mexico has 34 tax treaties that would not cover the CETU because the CETU is not considered an income tax. End Comment.)

#### Conditional Support for Improving Mexico's Public Finances

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¶3. (U) AmCham begins its presentation by welcoming any initiative to improve Mexico's public finances, as long as the measures protect and promote investment, employment generation and raise the level of competitiveness. The AmCham says the positive aspects of the fiscal reform are: its evaluation of the budget based on measures and objectives to make sure spending is more transparent and efficient; improved capacities and obligations of the states for tax collection and harmonizing accountability at all three levels of government (federal, state and municipal); multi-year budgeting for investment and infrastructure projects; and the effort to tax the informal economy.

#### Possible Constitutional Problems

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¶4. (U) The AmCham says the CETU may face a constitutional problem because temporary imports by maquiladoras, labor costs and charitable donations are not deductible. The AmCham recommends reducing the CETU to rate to 12 percent. (Comment: The proposed CETU rate starts at 16 percent, and rises to 19 percent in future years. The very purpose of the CETU is to get around the many legal tax exemptions currently provided to firms and individuals in Mexico. End Comment.) The AmCham also claims that the proposed reform

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inappropriately holds lawyers, public accountants or advisors accountable for the fines of taxpayers, which would violate Mexico's constitutional guarantee that individuals can "freely practice" their professions.

#### Need for a Transition Period, Deductions Under the CETU

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¶5. (U) The AmCham calls for a transition period before the CETU takes effect, saying the transition period should be clearly defined and recognize depreciation and losses from previous years. The AmCham complains that there is no transition mechanism that would allow deductions for pending investment, and no clarification for the treatment of payments for investments made in previous years. The AmCham predicts a paralysis of investment in the second half of 2007 due to uncertainty about tax implications for 2008.

¶6. (U) The AmCham calls for social security payments and salaries to be deductible from the CETU, especially for firms whose principal asset is human capital. The AmCham also calls for research and development and charitable contributions to be deductible. The AmCham says many of its members would be adversely affected if donations are not deductible.

#### Impact on Maquiladoras

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¶7. (U) The AmCham claims that the CETU will raise taxes on maquiladoras by 700 percent, and that 80 percent of this increase is due to insufficient provisions for crediting social security payments, profit sharing payments, Christmas bonuses and overtime against the CETU. The AmCham complains that the proposal holds owners of the maquiladoras responsible for tax charges for workers who are themselves exempt from tax because of their low salaries (Comment: Post will be meeting with the Mexican Maquiladora Association and will report further on their views. End Comment)

#### Informality Tax

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¶8. (U) The AmCham welcomes the proposal for a 2 percent tax on bank deposits over 20,000 Mexican pesos a month in order to capture revenue from the informal economy, and as a means to identify those who do not declare their income to tax authorities. AmCham suggests, however, that this "informality tax" only apply to physical persons and businesses not currently registered with the Finance Ministry. For those who do pay taxes, the AmCham says the "informality tax" should be creditable not only against income tax, but also against the Value Added Tax and the CETU. (Comment: Ref I reports that 25 to 43 percent of Mexico's working age population is employed in the informal economy. End Comment)

Conditional Support for Efforts to Fight Tax Evasion  
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¶9. (U) The AmCham supports the Calderon Administration's efforts to combat tax evasion in the proposed fiscal reform, but expresses concern about the idea of restricting the right of taxpayers to offer evidence that they have complied with their tax obligations. AmCham claims this would limit access to justice and be a step backward from the fiscal code of 1967 which has subsequently been expanded by court decisions. (Comment: According to a Chamber of Deputies Finance Committee staffer who worked on fiscal reform, one of its purposes is to shift the balance from current laws that strongly favor taxpayers to a more balanced system such as in the United States. See ref H. End Comment) The AmCham also criticizes the proposal to raise the criminal statute of limitations for tax violations to eight years, claiming the applicable term should be five years.

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Further Fiscal Reform is Needed  
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¶10. (U) The AmCham concludes its presentation by expressing the hope that once the fiscal reform is approved, work will begin on a second reform to deal with VAT taxes on consumption, so that Mexico's public finances can be truly viable. (Comment: As reported in ref C, both opposition parties the PRI and the PAN oppose expansion of the value-added tax. End Comment)

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